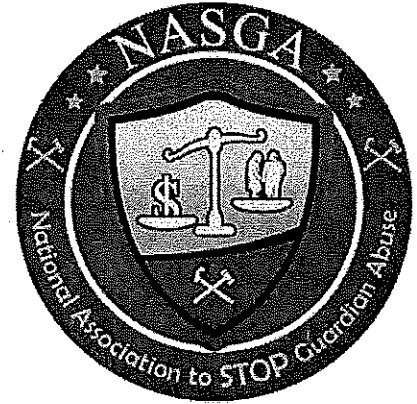




FALK ~ NASGA



March 3, 2016

Aging Committee: HB 5361

Representative Joseph Serra

Chairman & Committee Members

My name is Catherine Falk. My father was Peter Falk, a well-known actor most known for his role as Lt. Columbo. I had a relationship with my dad and like many families, we had our ups and downs but we were always father and daughter. After sixteen years of marriage to my mother, my father remarried a second time. During his second marriage, his wife seemed controlling and jealous of any relationship my father maintained with my sister and I up until 2009 just before Father's Day. I spoke to him by phone just three days before his hip replacement surgery. Father's Day came and went without being able to see him and I knew something was drastically wrong. I knew that the effects of the anesthesia from surgery may very well have exacerbated his Alzheimer's along with not being able to walk after surgery; thereby, diminishing any autonomy and capacity that he demonstrated just days before Father's Day.

I didn't know where to turn for help. Someone recommended that I contact a probate lawyer to seek legal remedy. In 2009, my attorney informed me that my only option to see my dad again was to file for conservatorship in probate court. I wasn't interested in controlling his estate or his care, only the desire to visit with him. At the judge's discretion, she granted me visitation rights. This was after spending close to one hundred thousand dollars of my own money to prove to the court that I had a prior relationship with my dad. He was placed in a conservatorship, which was not what I had intended.

It was then, in 2010 that I had this idea to draft a visitation bill to avoid a lengthy and costly court battle and potentially an unnecessary conservatorship. In 2011, a visitation bill was drafted and my lawyer handed the very first draft to a California legislator in 2013 for it's final passage in 2015. I took one of the amended drafts to New York to try to obtain sponsorship for the bill. I learned very quickly that my original bill was limited to adult children seeking visitation with an ailing parent and that it perpetuated many unwanted and unnecessary guardianships just by seeking visitation rights with those not in a conservatorship using the probate court to solve criminal and civil matters of isolation and elder abuse.

My crusade was no longer about visitation between an adult child and an ailing parent. It became two separate but equal concerns for me. One concern is about people who experience isolation by a spouse, relative or caretaker who abuses their powers absent any guardianship appointment, leaving very little choices to someone like me who had a relationship before the onset of isolation.

My second concern is about wards, the disabled, vulnerable and incapacitated population currently in guardianships experiencing isolation. I quickly recognized that guardians wield absolute power over their wards and far too often have the power and authority to isolate, exploit, over-medicate and liquidate properties and assets. The Uniform Law Commission accepted my proposal of visitation legislation, which has been referred to the drafting committee to revise the Uniform Guardianship Act as well as the Joint Editorial Board for Uniform Family Law and Uniform Trust and Estates Acts addressing visitation rights affecting people not subject to guardianship.

Tennessee, Chairman Rusty Crowe gave me the opportunity to draft a comprehensive wards' rights bill, addressing the majority of incapacitated people suffering in isolation that has recently passed the Senate Judiciary Committee 6-2. I have taken this Tennessee bill to other states as model legislation. Colorado replicated much of the language of the Tennessee bill in what they have titled, The 'Peter Falk Act' which has recently passed through the Judiciary Committee 5-0. Our bill has also passed the Senate Judiciary Committee of Utah unanimously!

HB5361 advocates for incapacitated people in conservatorships, granting them the right to make their own decisions of who they wish to see or not to see- an innate right which should not be taken away simply because the person is in a conservatorship. Bill 5361 is designed to stop bad guardians from isolating their wards with no accountability for their actions. It protects the growing number of people who are currently falling through the cracks and have nowhere to go for help. It is not designed to make it harder for good guardians to do their job. Conversely, the bill helps to impede those who are wrongfully isolating their wards with no accountability and without the oversight of the court. It will require the guardian to provide the burden of proof to a judge in order to over-ride an incapacitated person's wishes. Although many guardians serve their wards' needs efficiently, there are a growing number of guardians who don't. If the guardian has the power to isolate without the oversight of the court, then the ward has no place to go for help except to the abusive guardian.

Having worked in the jails as a Probation Officer, I witnessed felons who had visitation rights on weekends, access to telephone calls, the ability to send and receive mail, and proper medical care while I have studied thousands of cases of wards who's fundamental and civil liberties have been violated and exploited as they live in isolation, over-medicated, while their bank accounts are depleted. I ask myself why do we treat prisoners better than our elders or adult disabled population in America? I wonder why we don't guardianize the homeless, people who need our help the most yet far too often we guardianize unnecessarily in an effort to control, exploit, liquidate and over medicate the most vulnerable population in society. It seems as though we don't guardianize the homeless because there is no money attached to them but many of our vulnerable elders and adult disabled population with money seem to be moving targets in a very flawed system.

As my dad always said, "Just One More Thing"...

I never imagined as his daughter, that I or his family and friends would be confronted with the permanency of separation in the final years of his life. He was the most outspoken, vibrant, iconic, independent and funny father and man I ever knew. I loved him with all of my heart. I watched how he brought his mother's caretaker to justice in New York for financial exploitation when this caretaker was supposed to look after my grandmother but instead abused her emotionally and financially. My father worked with the District Attorney's office to press criminal charges for elder abuse and financial exploitation.

Thank you for allowing me the opportunity to share my story and testimony with you.

CATHERINE FALK

Catherine Falk Organization

Daughter of Peter Falk aka "Columbo"

